REMARKS

The Office Action

Claims 1-32 were presented for examination.

Claims 26 and 31 were rejected under 35 U.S.C. § 112.

Claims 1-4, 6, 8-9, 13, 15-16, 19-24, 26, 28 and 30-31 were rejected under 35 U.S.C. § 103(a).

Claims 5, 7, 14 and 29 were also rejected under 35 U.S.C. §103(a).

Claims 10-12 and 17-18 were also rejected under 35 U.S.C. §103(a).

Claims 27 and 32 were also rejected under 35 U.S.C. §103(a).

Applicants have amended claims 1, 10, 13, 17, 19, 24 and 26.

Applicants have canceled claims 12, 18, and 28-32 in addition to previously canceled claim 25.

Applicants have added new claims 33-40.

35 USC §112 and Claim Objections

Applicants have amended claims 26 and 31 to address the Examiner's rejection on the basis of 35 USC §112. The Examiner correctly assumed that these claims were meant to depend from claim 24.

The Concepts of the Present Application are Patentably Distinct over Gruse et al. 6,389,538 in view of Ginter et al. 6,948,070

Applicants, in a previous response, argued that Gruse et al. ('538) is directed to a system distinct from the concepts of the present application. In particular, Applicants pointed out that, according to the description in Gruse et al., that not all users of the Gruse et al. system are able to be marketmakers, *i.e.*, that they can upload their own content and control access to and usage of that content. Applicants showed that, if the content providers themselves want to distribute their own content, they must also open an electronic digital content store (Fig. 1B).

The Examiner apparently agreed with Applicants in this regard, allowing that Applicants' arguments, with particular reference to independent claim 1, were persuasive. However, the present Office Action now declares new grounds of rejection in view of Ginter et al. ('070). The Office Action cites Ginter et al. as disclosing "wherein any user of the community of users can be provided with a

capability of configuring and administering individual ones of the electronic markets/stores" (col. 2, lines 29-41). The Office Action further argues that it would have been obvious to one of skill in the art to modify Gruse et al. with the device of Ginter et al. to allow any user of the community to have the capability of configuring individual electronic markets in order [to] allow individuals to participate as a content provider.

Applicants do not agree that Ginter et al. discloses a device which allows users of the community to have the capability of configuring individual electronic markets. Ginter et al. describes a virtual distribution environment (VDE) which can be used as "a general purpose electronic transaction/distribution control system allows users to maintain a single transaction management control arrangement on each of their computers, networks, communication nodes, and/or other electronic appliances" (Abstract, col. 11, lines 40-61). Essentially, the device of Ginter et al. is directed towards content providers, providing content providers with control over electronically stored content and/or commercially provided electronic content (col. 11, lines 61-65, col. 12, lines 1-3). For example, "Ginter et al. lists means which VDE can employ, one of which is particularly enlightening regarding the teachings of Ginter et al. In particular, VDE can employ "(5) A distributed, secure, 'virtual black box' comprised of nodes located at every user (including VDE content container creators, other content providers, client users, and recipients of secure VDE content usage information) site. The nodes of said virtual black box normally include a secure subsystem having at least one secure hardware element (a semiconductor element or other hardware module for securely executing VDE control processes), said secure subsystems being distributed at nodes along a pathway of information storage, distribution, payment, usage, and/or auditing. In some embodiments, the functions of said hardware element, for certain or all nodes, may be performed by software, for example, in host processing environments of electronic appliances."

From the above, it can be seen that Ginter et al. does not address the subject of "configuring and administering individual ones of the electronic markets" as recited, for example, in claim 1 of the present application, but instead addresses the needs of content providers for configuring and controlling the individual content. The electronic markets referred to in the present application include, for example, auctions where sellers place products up for bid to buyers, or storefronts where products are offered for sale or license at a specific price ([0002]). It is the

configuring and administering individual ones of these electronic markets which the above-mentioned limitation is directed to, rather than the configuring and administering the individual products/content. For instance, an embodiment of the present application provides "a method and system which permits distributed administration of public and private markets, where end users or marketmakers create the markets and control access and usage, including what product (i.e., electronic content, electronic document, or document file) is to be for sale, and payment options. These markets may be hosted on servers where marketmakers exercise control via access through a worldwide electronic communication network such as a private network, Internet and/or World Wide Web or other system" ([0024]).

Ginter et al., however, does not appear to address the subject of electronic markets except in passing as it discusses the subject of electronic content (see, e.g., col. 8, lines 23-59). The present application, on the other hand, refers to private markets which are controlled through passwords and through properties of account profiles such as group memberships. Password protection controls access to the markets, and encryption enables control of usage. Thus, <u>any user of a community of users in a network is given the capability to set up their own market</u>. The design of this system <u>makes it feasible to create as small or large a market as desired by the marketmaker</u> ([0025]). While Ginter et al. may address problems and provide solutions related to the control of individual content, Ginter et al. does not provide teachings or suggestions related to the creation and control of a market (such as, e.g., an internet storefront) by a user.

Thus, there remain fundamental distinctions between Gruse et al. '538 in view of Ginter et al. '070 and the concepts of the present application as claimed. More specific attention to these distinctions is provided in the following paragraphs.

Independent Claims 1 and 13 and Corresponding Dependent Claims 2-11 and 14-17 are Distinguished from the Art

With attention to independent claim 1, provided is a distributed administration system where any user of the community of users can be provided with the capability of configuring and administering individual ones of electronic markets. Again, as apparently agreed with by the Examiner, Gruse et al. '538 does not provide such capability. Gruse et al. '538, as described in a previous response, provides a clear wall between the various users of the system (*i.e.*, content

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providers, content store providers and end users), however, in view of the arguments presented above, Ginter et al. '070 does not offer any teachings or suggestions related to configuring and administering individual ones of electronic markets.

To further distinguish claim 1 over the cited references, Applicants have amended claim 1 to recite a limitation including a paper interface to the electronic market. The paper interface permits administration of an electronic market. Applicants note that the Office Action rejected claim 10 as originally filed which recited the limitation of a paper interface. This claim was rejected in the Office Action based on Gruse 35 et al. '538 in view of Ginter et al. '070, and further in view of Siegel et al. (U.S. Patent Publication No. 2003/0014317). In supporting this position, paragraph [0111] was pointed to where Siegel et al. discloses the use of enhanced barcodes. More specifically, paragraph [0111] discloses that the "system sets up a point-of-sale interface with barcode capability for product tracking and real time inventory updates based on sales. Additional equipment may be used for printing receipts and barcodes for a product mix of pre-barcoded and non-barcoded merchandise."

Applicants submit, however, that the barcode system disclosed by Siegel et al. differs in concept and use than the paper interface of the present application as recited in claim 1. For example, the cited paragraph clearly indicates that the system with barcode capability is a point-of-sale (POS) system. Further, Figure 4 of Siegel et al. clearly shows the POS system to be an in-store system. The barcode system of Siegel et al. is primarily used for purposes of inventory control ([0103]). More specifically, the "electronic store is able to keep track of the inventory so that, if elected by the merchant, customers cannot buy more items than available" ([0111]). This is further reinforced where Siegel et al. discusses real-time inventory control: "Inventory control is done in real-time from the point-of-sale database. The system automatically generates and, optionally, prints barcodes which can be placed on inventoried products for inventory control" ([0131]).

The paper interface of the present application, on the other hand, is clearly used beyond the in-store locations described in Siegel., and is clearly used for purposes beyond inventory control. To illustrate one of the differences, for example, in Siegel et al., the customers have no control over the barcode. That is, they cannot create, configure, remove or otherwise modify the barcode. They simply pick up a

product, and present it to a cashier for payment. It is significant to note that the barcode reader of Siegel et al. is part of a point-of-sale system used for integrating in-store purchases with online purchases. In other words, the barcode system is not an online barcode system used by online customers but is, instead, simply an in-store barcode reader. The paper interface of the present application, contrary to the barcode reader of Siegel et al., enables a user of the community to use a paper interface to create and administer an electronic market, including adding electronic content to an electronic market previously created ([0070], Fig. 10). Further, the paper interface can also be used to initiate a transaction with an electronic market having usage permissions. A buyer at a remote location can use a paper interface having a unique identification encoded on paper using enhanced barcodes ([0072]).

In summary, the barcode reader of Siegel et al. is described as an in-store reader, used for real-time inventory control, and for integrating in-store purchases with online purchases. The paper interface of the present application is used at remote locations for both creating online content, and for initiating transactions on an online marketplace. More detailed descriptions of the features of the paper interface are described in the present application.

For at least the above-stated reasons, independent claim 1 is distinguished from the cited art.

Turning attention to independent claim 13, this claim also recites the concept that each user of the community of users is able to be provided with the capability of administering permissions to control access and usage of electronic markets. For example, claim 13 recites a limitation for "distributing administration of the electronic markets, wherein each user of the community of users is able to be provided with a capability of administering permissions which control access and usage of the electronic markets." While Ginter et al. may address control of the individual content offered on a marketplace, Ginter et al. does not address the subject of controlling access to and usage of the marketplace.

Claim 13 has also been amended to recite a limitation for providing a paper interface to the electronic market. The arguments presented above for claim 1 with reference to the paper interface apply as well to claim 13.

For at least these reasons, independent claim 13 is distinguished.

As dependent claims 2-11 and 14-17 further define these now-distinguished independent claims, they are also considered distinguished.

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Independent Claims 19 and 24 and Corresponding Dependent Claims 20-23 and 26-27 are Also Distinguished

With attention to independent claim 19, provided is a method of creating and administering an electronic marketplace. The method, as amended, recites a limitation for distributing administration of the electronic marketplace wherein each user of the community of users is able to be provided with a capability of administering permissions which control access and usage of the electronic marketplace. As noted before, Gruse et al. '538 does not provide such capability. Gruse et al. '538, as described in a previous response, provides a clear wall between the various users of the system (*i.e.*, content providers, content store providers and end users), however, in view of the arguments presented above, Ginter et al. '070 does not offer any teachings or suggestions related to administering permissions which control access and usage of the electronic marketplace, but rather only discusses administering permissions for individual content. Claim 19 has been further amended to more particularly recite novel features of the distribution concepts of the present application.

Turning attention to independent claim 24, this claim, as amended, also recites a limitation for the concept that each user of the community of users is able to be provided with the capability of administering permissions to control access and usage of an electronic marketplace. For example, claim 24, as amended, recites a limitation for "a distributed administration system, wherein any user of the community of users is able to be provided with a capability of configuring and administering permissions which control access and usage of an electronic marketplace." While Ginter et al. may address control of the individual content offered on a marketplace, Ginter et al. does not address the subject of controlling access to and usage of the marketplace by any of the users of the marketplace.

Applicants respectfully assert that because the references given in the Office Action with reference to the rejections of claims 19 and 24 do not teach that any user of the community of users is able to be provided with a capability of administering permissions which control access and usage of the electronic marketplace that the rejection of claims 19 and 24 should be removed.

As claims 20-23 and 26-27 depend from and further distinguish the now-rejected claims, it is submitted these claims are also distinguished.
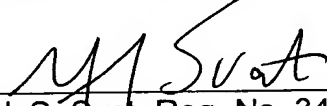
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CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-11, 13-17, 19-24, 26-27 and 33-40) are now in condition for allowance.

Respectfully submitted,

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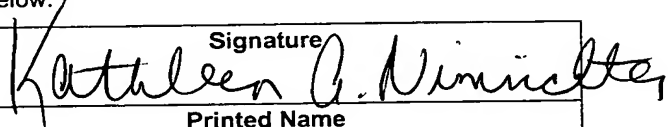MINNICH & McKEE, LLP

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